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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

MISC. APPEAL (C) NO. 350 OF 2007

APPELLANTS

1) Berna Xaxa, Wd /o Late Pascal Xaxa aged about 45 years

2) John Xaxa S/O Late Pascal Xaxa Aged about 25 years

3) Pramod Xaxa S/o Late Pascal Xaxa Aged about 20 years

All are by caste Uraon, R/o Vill. Jambahar [Khawa toli], Thana Tapkara Tah. Kunkuri Distt. Jashpur [C.G.]

Versus

RESPONDENTS

1) Rajesh Kumar Bairagi S/o L.R.Bairagi, Aged about 30years, Occupation : Driver Department of Health, District hospital jashpur, Distt. : Jashpur. nagar, Permanent R/o Distt. Jashpur [Driver] of Vehicle Involved in accident bearing No. **MP 09 / TZ 3212]**

2) The Chief Medical Officer District Hospital Jashpur Distt. Jashpur [CG][Head of the Office and incharge of the Vehcle & responsible for its movement]

3) State of Chhattisgarh Through Collector, Distt.Jashpur [Due to Vehicle of the State]

Present : Shri NK Malviya, counsel for the appellants.

None for the respondents.

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ORAL ORDER
(Passed on 23rd March, 2007)

The following oral order of the Court was passed by **Vijay Kumar Shrivastava, J.**

This appeal by claimants under Section 173 of the Motor Vehicle Act 1988 (for short "the Act") has been directed for enhancement of the compensation, against the award dated 30.11.2006 passed by Additional Motor Accident Claim Tribunal, Jashpur (henceforth "the Tribunal") in Claim Case No.32/2005 whereby a sum of Rs.1,17,000/- has been awarded to them.

2) Briefly stated facts are that on 16.02.2004 Pascal Xaxa (since deceased) met with an motor accident and succumbed to the injuries. The accident was caused by respondent No.1 driving vehicle No. MP-09/TZ- 3212 in a rash and negligent manner. The owner of the vehicle is State.. Legal representatives of the deceased who are appellants herein filed an application under Section 166 of the Act for grant of compensation against the respondents. Respondents No. 2 and 3 remained ex parte whereas respondent No.1 contested the claim.

3) The Tribunal after due appreciation of the evidence, allowed compensation as below :

a)	loss of dependency	Rs.1,10,000/-
b)	funeral expenses	Rs. 2,000/-
c)	Loss of consortium	Rs. 5,000/-
	Total amount	Rs.1,17,000/-

4) Heard learned counsel for the appellants. He contended that Tribunal did not record the income of the deceased correctly and allowed compensation on lower side.

5) We have gone through the award. There is no substantive legal evidence to prove the income of the deceased. Undisputedly deceased was 55 years. Therefore, the Tribunal for assessment of loss of dependency accepted annual notional income as Rs.15000/- after reducing 1/3 of his income towards his own expenses applied multiplier of 11 and recorded loss of dependency, also awarded amount on other heads. The finding of facts recorded by the Tribunal does not suffer from any illegality or irregularity so as to condemn it. We do not find any substance in the appeal, therefore, it is liable to be dismissed and is accordingly dismissed.

Sd/- **Chief Justice**	**Sd/-** **V.K. Shrivastava** **Judge**